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COMMISSION ASKS WHY

JAIL IS OVERCROWDED

**Solicitor Replies
That 130**

**Cases Hang Fire
for Lack of Judge
and Court**

The board of county commissioners has officially called the attention of the solicitor general to the unusually crowded condition of the Fulton county jail, and has asked the reason for the delay in the disposition of felony cases.

This is the first time that the county commission has taken official cognizance of congested jail conditions and it is causing considerable comment.

The solicitor general has replied to the board's letter, stating that he is ready to take up the trial of jail prisoners whenever he can secure a judge and a court room, which will probably not be before October 13, when Judge Ben H. Hill takes up his duties as judge of the superior court of this circuit.

There are said to be 130 felony prisoners in the Fulton county Tower at present, and many of them have been languishing in the prison for several months.

The Frank case prevented the usual midsummer court term at which the jail is generally cleared, and the fact that Judge Hill and Judge L. S. Roan are to exchange places, is causing further delay.

The county commission is interested in the situation especially because of the expense of holding so many prisoners in the jail. Each prisoner costs the county 30 cents a day for food alone, and the extended stay in the Tower of some of them is making it quite expensive.

In an effort to clear the jail of city court cases, Judge Andy Calhoun has recently completed a solid month's court, disposing of many cases, but more than 100 prisoners, who will be tried in his court, are still in the Tower.

Most of their cases, however, will be disposed of during the coming week.

There is no prospect, despite the letter of the county commission, of a session of the criminal division of the superior court until the week of October 13. Judge Roan is qualified to preside, but in every case where he is the presiding judge he disqualifies himself for passing on any question relative to the trial should it come before him while on the bench of appellate court, where he will be just as soon as Judge Hill resigns his seat.

Besides the 130 cases in the Tower, there are approximately 750 indictments which are pending and ready to be disposed of in the superior court.

There are probably 1,500 indictments upon which the court has never acted officially, but about one-half of them for varying reasons are termed "Dead" and will never be tried.

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FRANK TRIAL MOTION

READY FOR SOLICITOR

Amended Motion to Be
Served

on Dorsey Wednesday—
Hear-

ing Later Before Hill

The amendment to the motion for a new trial for Leo M. Frank, convicted of the murder of Mary Phagan, will be served upon Solicitor General Hugh M. Dorsey during the day Wednesday, together with the defense's brief of the evidence.

The motion and the brief will both be voluminous affairs, and in the former Attorney Luther Z. Rosser is expected to ask a new trial on many different counts.

In fact, the trial will probably be thoroughly covered, the defense asking for a new trial on practically every point, where it was originally overruled.

In addition to the legal points, where the court held against the defense, it is expected the amendment will ask a new trial on the ground that the crowd in the court room on several occasions applauded when the solicitor scored, and that the jury heard the crowds in front of the court house when they would cheer Dorsey as he left the building. The public sentiment against Frank will play a part in the document.

It is definitely known that efforts have been made by the defense to collect evidence showing that some of the jurors were prejudiced, when they were sworn, and it is considered probable that this charge will be made in the amendment. The document, however, will not contain affidavits or other evidence to this effect. Any evidence that jurors expressed prejudice or conviction before the trial will be held until the hearing of the motion.

One of the principal points upon which it is expected the motion will be based is that Judge L. S. Roan erred in admitting Jim Conley's testimony relative to alleged previous transactions of Frank, and other testimony, which was introduced to corroborate his statements.

The incident, where Judge Roan was reading a newspaper the headlines of which are alleged to have been seen by the jurors, will probably be used.

The defense throughout the four weeks of Frank's trial was constantly objecting to the testimony of state's witnesses, and the statements brought out on cross-examination of its own witnesses by the solicitor. In a number of instances, the court ruled with the state and each one of these is expected to form a count in the motion.

The hearing of the Frank motion is set for next Saturday. It would be practically impossible for the solicitor general to prepare his answer by Saturday, and the idea that the motion will actually be argued then is not seriously considered.

It is possible, however, that an effort will be made to postpone the case only for a week in order that it may be disposed of before Judge L. S. Roan leaves the superior court bench. It is hardly probable, however, that the solicitor general can get ready his answer even in that time, and the actual hearing of the motion will probably fall upon Judge Ben H. Hill.